

## **Regulatory Committee**

Meeting to be held on 6<sup>th</sup> June 2018

Electoral Division affected: Lancaster Rural East
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### **Commons Act 2006 Section 12 The Commons Registration (England) Regulations 2014**

**Application for a Transfer of a Right of Common in gross to be recorded in respect of some of the Rights of Common, being grazing rights severed from the land at Ireby Green, Ireby, being entry 4 in the Rights Section of Register Unit CL23 known as Ireby Fell in the Parish of Ireby**

(Appendices 'A' and 'B' refer)

Contact for further information:

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#### **Executive Summary**

An application from John Douglas James Welbank and Sylvia Margaret Welbank to record a transfer of rights in gross, namely the right to graze 26 sheep gaits, between John Stephen Brown, the Transferor and the Applicants, the transferees, on 6th November 2012 which were previously attached to Ireby Green, Ireby.

#### **Recommendation**

That the application be accepted and the transfer of rights in gross be recorded in the Commons Register in accordance with section 12 of the Commons Act 2006 that Mr John Douglas James Welbank and Mrs Sylvia Margaret Welbank are entitled to exercise the right to graze 26 sheep gaits on common land unit CL23.

#### **Background and Advice**

Section 12 of the Commons Act 2006 states that a transfer of rights in gross only has effect if it complies with such requirements as to form and content as regulations may provide and does not operate at law until, on an application under this section, the transferee is registered in the register as the owner of the right. Applications under Section 12 can only be made by the registered owner of the right in gross, or the transferee of that right, meaning the person to whom the right in gross will be transferred. If the applicant is the transferee, consent must have been obtained from the registered owner of the rights in gross.

In this matter, the rights had previously been attached to Ireby Green, Ireby, shown edged red on the supplemental map in Appendix 'A'. The rights attached to this land were to graze 101 sheep gaits, with 1 sheep gait representing a right to graze 1 sheep or 4 lambs; 10 sheep gaits representing a right to graze 1 horse over register unit CL23.

It is currently recorded at CL23 Rights Entry 4 that Stephen Harold Brown and Mary Eleanor Brown are entitled to exercise the right to graze 101 sheep gaits over Ireby Fell. However, in a conveyance dated 1<sup>st</sup> December 1990, between (1) Mary Eleanor Brown and Thomas Fawcett Brown and (2) Stephen Edward Brown, the full 101 sheep gaits were transferred to John Stephen Brown. The conveyance dated 1<sup>st</sup> December 1990 also conveyed approximately 64.3% of the land contained in CL23 Rights Entry 4 to John Stephen Brown. By virtue of other conveyances, on 1<sup>st</sup> December 1990, the remainder of the land contained in CL23 Rights Entry 4 was conveyed to third parties without the benefit of commons rights and therefore the commons rights formerly attached to that land were severed from the land on 1<sup>st</sup> December 1990 and held in gross by John Stephen Brown. CL23 Rights Entry 4 has never been updated to reflect this.

By Transfer of Common Rights dated 11<sup>th</sup> March 2015, attached as Appendix 'B', made between John Stephen Brown, the Transferor and John Douglas Welbank and Sylvia Margaret Welbank, the Transferees, it was declared by the Transferor that he was the owner of all the rights referred to in Rights Entry 4. Part held in gross and part attached to the land contained in the Conveyance of 1<sup>st</sup> December 1990.

By virtue of a transfer of the Green dated 6<sup>th</sup> November 2012 made between John Stephen Brown and the Applicants, John Stephen Brown transferred the commons rights attached to The Green, and by virtue of a contract for the sale of the Green between the Transferor and the Transferee dated 5<sup>th</sup> November 2012, it was agreed that the equivalent of 69.33% of the commons rights held in gross be transferred to the Applicants, with the intention that they shall be registered as being the owner of those commons rights in gross.

It is advised that if the application is well founded then the application be accepted and the transfer of the right of common be recorded in the Commons Register.

### **Consultations**

Notice of the application was served in accordance with Schedule 7 of the Commons Registration (England) Regulations 2014. Notice was also given on the county council web site and also to all parties who have requested to be notified of applications and proposals made under the Commons Act 2006.

### **Implications:**

This item has the following implications, as indicated:

### **Risk management**

Consideration has been given to the risk management implications associated with this proposal. The Committee is advised that provided the decision is taken in accordance with the advice and guidance given, and is based upon relevant information contained in the report there are no significant risks associated with the decision-making process.

**Local Government (Access to Information) Act 1985**  
**List of Background Papers**

Paper	Date	Contact/Directorate/Tel
File of papers denoted 3.751		Lindsay Campy Legal and Democratic Services Ext 533439

Reason for inclusion in Part II, if appropriate

N/A